MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2018/2019

UEQ 3622 – EQUITY & TRUST II

(All Sections / Groups)

1 MARCH 2019
Reading Time: 9:00 A.M. – 9:15 A.M.
(15 Minutes)
Answering Time: 9:15 A.M. – 12:15 P.M.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of **Three** pages with **Four** Questions only.

3. **Attempt Either Question One A OR Question One B. Questions Two to Four are compulsory.** All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring in CLEAN and ORIGINAL copies of the following statutes into the Examination Hall:
   i) Trustees Act 1949
   ii) Specific Relief Act 1950
   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

ATTEMPT EITHER

QUESTION 1A

A trustee's duty to invest and duty to convert are essential for the good administration of family trusts, especially if unforeseen circumstances occur.

Discuss the statement above with reference to relevant authorities.

(TOTAL: 25 Marks)

OR

QUESTION 1B

a) A and B are the trustees of a private trust set up under the will of a testator who died earlier this year; the beneficiaries are members of the testators' family. The assets of the trust comprise of shares in the testator's family business, Goodland Sdn. Bhd., which engages in property development. A is a solicitor, B is the director of Goodland Sdn. Bhd. There is no provision for remuneration of the trustees in the trust instrument. Advise the trustees as whether they are entitled to claim remuneration for acting as trustees.

(10 Marks)

b) B is approached by an investment broker, who offers to pay him RM100,000 'no questions asked' if he invests the trust fund with him. B agrees, and is paid the RM100,000. The trust investment has dropped half in value. Advise the beneficiaries of the trust.

(15 Marks)
(TOTAL: 25 Marks)

ATTEMPT ALL QUESTIONS

QUESTION 2

Sam took bribes and secret profit commissions whilst as a trustee of a private trust. He spent the bribe money and commissions on gambling and purchased a holiday home which is now worth double the price he paid. Sam is insolvent now.

a) Discuss the fiduciary position of Sam. (15 Marks)

b) Advise the beneficiary. (10 Marks)

(TOTAL: 25 Marks)

Continued...

QUESTION 3

Development for Malaysia Bhd. (DMB) is a government linked company registered with the purpose of finding and executing investments and development opportunities for the financial benefit of the Malaysian government. It is closely linked to the Ministry of Finance whereby the ministry provides the company with the funds the company needs to invest and operate. Consequently, the Minister of Finance is the Chief Executive Officer and the Chief Financial Officer of the said company.

Last week, an audit of the company revealed misappropriation of government funds in favour of company directors and what appeared to be negligent investment decisions that caused losses. The Attorney General and police have launched investigations into the matter. They have discovered several negligent and potentially illegal and/or fraudulent activities by the company. However, they need more information and documentation as evidence to pursue this further. The Attorney General is considering applying for an Anton Piller order to facilitate this.

Additionally, investigations have uncovered plans to enter into a very risky investment i.e. funding the production of a fantasy movie titled Wolves on the Street by Impian Films Sdn. Bhd. Investigations reveal that Impian Films Sdn. Bhd. is owned by the Minister of Finance's son, Mohamad Madir.

a) List and explain the considerations, requirements and restrictions that the court will take into account in an application for the grant of an Anton Piller order with relevant authorities.

(6 Marks)

b) Advise the Attorney General as to the relevant legal recourse in stopping DMB from proceeding with the investment mentioned in the facts above. The contract with Impian Films Sdn. Bhd. is to be concluded next week. What can the Attorney General do in the face of this new fact?

(19 Marks)

(TOTAL: 25 Marks)

Continued...

QUESTION 4

Johnny Pepp, Eddie Redhed, Jude Case and Ezra Millet entered into contracts with Varner Brothers Sdn. Bhd. to act in a movie titled Fantastic Animals: The Crimes of Enson Wong. One week before production was to commence, the four actors disputed their respective contracts.

Johnny Pepp, a registered sex offender, claims that his contract was wrong; that the production company was cheating him out of millions of ringgit. He has produced correspondence that indicate that the two parties agreed on a sum of RM10 million for his professional fees. His contract, however, states RM4.6 million.

Eddie Redhed, a person with reddish coloured hair, claims that there is a mistake in what was agreed. He was under the impression that he will have the opportunity to perform all his own stunts as per the letters of negotiations. However, the production company, not wanting to risk the actors' lives and health has hired stuntmen for the job. Varner Brothers is willing to allow Eddie Redhed to perform some of the less dangerous stunts.

Jude Case, a rockstar turned famous actor, wants to pull out of the project as he has found another that offers him twice his professional fees at RM49 million.

Ezra Millet, a recovering alcoholic, wants to back out as his parents passed away last year at the same town where Fantastic Animals: The Crimes of Enson Wong will be filmed. He says that being there again will be more than he can handle.

As legal advisor to Varner Brothers, explain the legal positions as to each of the actors' reasons for wanting to terminate the contract with regards to equitable remedies. Advise, also, the company's position in possibly carrying on with the project with the said actors.

(TOTAL: 25 Marks)

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